



Docket No. CDC-2008-0001
Division of Global Migration and Quarantine
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services
Attn: 42 CFR Part 34 NPRM Comments
1600 Clifton Road, NE, MS E-03
Atlanta, Georgia 30333

August 10, 2009

RE: Docket No. CDC-2008-0001

Advocates for Youth is a non-profit organization based in Washington, DC, that champions efforts to help young people make informed and responsible decisions about their reproductive and sexual health. For almost three decades, the organization has worked tirelessly to promote effective adolescent reproductive and sexual health programs and policies in the United States and in low and middle countries. Advocates for Youth is a vocal supporter of the rights of all people living with HIV and has long supported the lifting of the HIV travel and immigration ban in the United States. Because young people between the ages of 15 and 24 constitute an estimated 45 percent of all new HIV infections annually, the burden of discriminatory policies against people living with HIV significantly impacts young people.

Dear Sir/Madam:

Advocates for Youth urges the prompt implementation of the proposed revision to 42 CFR Part 34, a regulation that would remove Human Immunodeficiency Virus (HIV) from the list of "communicable diseases of public health significance." Finalization of this proposed rule in the Federal Register is urgent, as the current U.S. travel and immigration ban for persons living with HIV does significant harm to the efforts of HIV prevention, both at home and abroad.

In 1986, during the height of the AIDS scare and prior to recent developments in medical and epidemiological principles, the CDC and the Department of Health and Human Services (HHS) proposed to include acquired immunodeficiency syndrome (AIDS) as a dangerous contagious disease. Concurrently, CDC/HHS also proposed to substitute HIV infection for AIDS. Today, public health experts agree that the ban has not stopped the spread of HIV, and ultimately perpetuates further HIV transmission. In fact, by barring the travel and immigration of HIV-positive non-citizens into the U.S. and/or disallowing

HIV-positive persons to become permanent legal residents, the ban serves as a disincentive for immigrants and non-citizens to get tested, diagnosed, and into treatment.

Thankfully, scientific and medical knowledge surrounding HIV transmission has evolved. While the CDC correctly acknowledges that HIV infection is a serious health condition, this proposed amended regulation also recognizes the advances in medicine and the study of HIV that show transmission is not spread casually. Additionally, experts in infectious disease and public health, including the *Joint United Nations Programme on HIV/AIDS (UNAIDS)*, affirm recommendations from the CDC that “HIV/AIDS should not be considered a condition that poses a threat to public health in relation to travel because, although infectious, the virus cannot be transmitted by the mere presence of a person with HIV in a country or by casual contact.” In proposing the new rule, the CDC rightly points out that, “the rationale for maintaining HIV infection as an excludable condition is no longer valid based on current medical knowledge and public health practice, scientific knowledge, and experience which has informed us on the characteristics of the virus, the modes of transmission of HIV and the effective interventions to prevent further spread of the virus.”

The United States’ HIV travel and immigration ban, and compulsory HIV testing for certain lawful permanent residence applicants, is an affront to human dignity, and violates the rights of equal protection, non-discrimination, privacy and freedom of movement—rights which the United States has long defended in the international arena. Currently, the U.S. is only one of 12 nations worldwide that has an HIV travel and immigration ban. Passage of this new regulation would finally place this country within the mainstream of appropriate international public health policy and practice.

People living with HIV/AIDS, including young people, have the right to full enjoyment of their human rights, including the right to privacy, confidentiality and protection from stigma and discrimination. HIV-related travel and immigrant restrictions infringe upon these and other human rights in multiple ways. The U.S. Citizenship and Immigration Services (USCIS) currently conducts the largest mandatory HIV-testing program in the world. Every applicant for permanent residence over the age of 15 undergoes HIV testing, and largely without informed consent. In many instances these mandatory tests are done without appropriate pre- and post-test counseling or safeguards of confidentiality. Advocates for Youth believes that any HIV testing should be voluntary and on the basis of informed consent.

The personal impact of HIV-related travel restrictions can be devastating for the individual seeking to immigrate, to gain asylum, to visit family, to attend conferences, to study, or to do business. The person impacted may simultaneously learn that s/he is living with HIV, that s/he may not be allowed to travel, and possibly that his/her status has become known to a combination of government officials, family members, community members, and his/her employer. This could possibly expose the individual to serious discrimination, stigmatization, or danger because of their health status. Additionally, these HIV travel restrictions can have a profound and disproportionate impact upon the discrimination experienced by the lesbian, gay, bisexual, and

transgendered people due to continued stigma around sexual orientation and gender identity at home and abroad. HIV related discrimination and stigma deters people (nationals and non-nationals alike) from getting tested for HIV and utilizing HIV prevention and care services.

The fear of getting caught at the border with HIV medication in their luggage may actually lead people with HIV to lie about their status and discontinue use of their HIV medication while traveling rather than risk being turned away. Such interruptions of treatment increase the chances of developing new or further viral mutations, which can lead to drug resistant strains of HIV that run risks of possible treatment failure.

Current policy mandates HIV testing for certain people attempting to obtain legal permanent residence. This is in direct opposition to the *UN International Guidelines for HIV/AIDS and Human Rights*. Further, these tests are often carried out with complete disregard for an immigrant's health. Potential HIV positive immigrants are left with the news that they have HIV with no support system to help. There are often no referral services for care and treatment. Beyond the lack of health support, these mandatory testing programs also miss out on the very real opportunity for HIV prevention.. Very little is done to ensure that those tested are provided with the necessary education, tools and support to not transmit HIV to others.

The adoption of the proposed rule to finally remove HIV from the list of "communicable diseases of public health significance" and also remove HIV from the scope of immigrant medical examinations is a much needed change in U.S. public health policy and immigration law. The new rule will put the U.S. within the arena of current international medical and epidemiologic practices and beliefs and significantly improve HIV prevention efforts and HIV care outcomes in the United States. For the above reasons, Advocates for Youth strongly urges the implementation of the CDC's proposed rule to lift the HIV travel and immigration ban.

Sincerely,

Advocates for Youth